IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24176 of 2004

Between:

1 Nallamekala Laxmaiah, S/o. Seshaiah,
R/o. Devarayapalli Village, Anantasagaram Mandal, Nellore District.
2 Devarala Narsaiah, S/o. Polaiah,
R/o. Devarayapalli Village, Anantasagaram Mandal, Nellore District.
3 Nallamekala Masthanaiah, S/o. China Masthanaiah,
R/o. Devarayapalli Village, Anantasagaram Mandal, Nellore District.

..... PETITIONERS

AND

1 The Superintending Engineer, Irrigation Circle, Ramalingapuram,

Nellore Town.
2 The Executive Engineer, Irrigation & CAD Department, Kavali,

Nellore District.
3 The Assistant Executive Engineer, Irrigation & CAD, Anantasagaram,
Anantasagaram Mandal, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, writ or direction more particularly a Writ of Mandamus Under Article 226 of Constitution of India, declaring the order passed by the 3rd respondent styling as notice in No. 87-A dated 28-10-2004 served on the petitioners on 17-12-2004 directing them to remove the bore wells failing which the bore wells would be removed with the assistance of police as illegal, arbitrary, unjust and violative of Principles of Natural Justice and set aside the

same and direct the respondents not to interfere with the petitioners and other agriculturists irrigating their land with the bore wells and pass such other order or orders.

Counsel for the Petitioners:MR.P.SRIDHAR REDDY

Counsel for the Respondents 1 to 3: GP FOR IRRIGATION & COMM AREA DEV.

The Court at the stage of admission made the following ORDER:

Petitioners challenge the notice dated 28.10.2004 issued to them by the Assistant Executive Engineer, Irrigation, the third respondent herein. They state that they have dug bore wells in the canal poramboke, to irrigate the lands since the ayacut was not receiving any water due to drought conditions. According to them, nearly 150 such bore wells were dug and the respondents have chosen to initiate steps against them alone and they seek appropriate directions against the respondents.

Heard learned counsel for the petitioners and learned Government Pleader for Irrigation.

A perusal of the notice dated 28.10.2004 discloses that the petitioners have dug bore wells in the irrigation canal and they were required to remove the same within two weeks from the date of receipt of the notice. The petitioners do not claim that the bore wells in question were dug in their own lands. Even accepting their contention that the bore wells were dug by the side of the irrigation canal in the Government land, it is impermissible for them to take such steps. Digging of bore wells either in the canal or by its side would adversely affect the flow of water. Illegal and unauthorized drawal of water cannot be permitted. In a way, the very fact that so many bore wells were dug right in the canal, discloses lack of supervision, care and maintenance on the part of the officials of the Irrigation Department. At least, at a belated stage they have woken up and took corrective steps. This Court is not inclined to interfere with the notice.

Learned counsel for the petitioners submits that the petitioners have raised

crops depending upon the bore wells and if they are abruptly closed, the crops would wither away. This Court cannot record any finding in this regard nor can it give any specific direction. It shall be open to the petitioners to make a representation to the third respondent or other authorities concerned narrating the relevant facts including the stage of the crop said to have been raised by them. If regulated and periodical supply of water through bore wells for a limited period is not going to cause any harm to the operation of canal, or the ayacutdars thereunder, the third respondent shall consider the feasibility of according such permission for a limited period, at such intervals, as he may deem fit, and ensure the removal of the pumps from the bore wells and the closure of the same soon thereafter.

The writ petition is accordingly disposed of. There shall be no order as to costs.

27.12.2004

ksld

To

1 The Superintending Engineer, Irrigation Circle, Ramalingapuram,

Nellore Town.

2 The Executive Engineer, Irrigation & CAD Department, Kavali,

Nellore District.

3 The Assistant Executive Engineer, Irrigation & CAD, Anantasagaram, Anantasagaram Mandal, Nellore District.

4 Two CCs. to the G.P. for Irrigation, High Court of A.P.,

Hyderabad(OUT).

5 Two CD copies.